

REMARKS

Overview

The Examiner responded in the prior Office Action as follows: rejected claims 1-2, 7-11, 13-14, 16-19, 32-42, 44-48, 50-74 and 77-87 under 35 U.S.C. § 102(a) as being anticipated by Bilibin et al. (U.S. Patent Application Publication No. 2005/0197892); rejected claims 12, 15, 43 and 49 under 35 U.S.C. § 103(a) as being obvious in light of Bilibin; and rejected claim 8 under 35 U.S.C. § 112 second paragraph as being indefinite.

Applicants hereby amend claims 1, 8, 13-14, 16, 50, 52, 54, 59, 62, 77 and 81 in order to clarify the subject matter of their invention. Applicants further hereby cancel claim 12. Thus, claims 1-2, 7-11, 13-19, 32-74 and 77-87 are now pending.

Applicants would like to thank Examiner Plucinski for her consideration during the telephone interview with Applicants' representative on September 14, 2007 for this application. During the interview, the Examiner agreed that the Bilibin reference lacked some of the features discussed, and that proposed claim amendments would likely render claims allowable over Bilibin, but that the Examiner may need to conduct an additional prior art search. Applicants have amended the independent claims 1, 16, 54, 59, 62 and 77 in a manner similar to that discussed during the telephone interview, and have made additional amendments to dependent claims 8, 13-14, 50, 52 and 81. These changes have been made to more clearly define the claimed subject matter, and Applicants believe that all pending claims are allowable.

Analysis

The Examiner has rejected claim 8 under 35 U.S.C. § 112 second paragraph as being indefinite. Applicants have amended claim 8, and believe that this rejection is now moot.

The Examiner has also rejected each of the previously pending claims as being unpatentable over Bilibin, either as being anticipated or obvious. However, various of the pending claims as rejected include features and provide functionality not disclosed or suggested by Bilibin, and thus are allowable over that reference. In addition, various of the pending claims as currently amended further include additional features and provide additional functionality not disclosed or suggested by Bilibin, and thus are further allowable over that reference on those bases as well.

The pending claims are generally related to enhancing operation of a retailer or other item ordering service by automatically identifying multiple alternative fulfillment plans that may be used to fulfill an order for one or more items from a customer, and automatically determining information about how use of a fulfillment plan will affect fulfillment of an order. For example, before receiving an order from a customer for one or more items, the described techniques may be used to automatically select a preferred one of multiple alternative fulfillment plan options for fulfilling the order, such as to enable the customer to receive information about an actual delivery date of the one or more items to the customer (or other recipient) if the customer places the order using a particular fulfillment plan. In at least some embodiments, the retailer or other item ordering service that fulfills orders may have multiple alternative item distribution centers to use in fulfilling orders, such as item distribution centers that are geographically distributed in various locations and that each carry inventory for various items, and may consider alternative fulfillment plans that include using various of the distribution centers as part of the order fulfillment processing.

As one example of features and functionality that are not taught or suggested by Bilibin, or otherwise obvious in light of Bilibin, independent computer-implemented method claim 1 as amended recites the following:

... receiving from a customer of the item ordering service an indication of one or more items, the customer being a potential purchaser of the one or more items;

automatically determining multiple geographically distributed alternative item distribution centers of the item ordering service that each have distinct current inventory that includes the items;

automatically determining multiple distinct alternative fulfillment plans for supplying the items to the customer that are each associated with one of the determined item distribution centers such that each of the determined item distribution centers has at least one associated fulfillment plan, each fulfillment plan indicating that the items are to be shipped from the item distribution center associated with the fulfillment plan and indicating a manner of shipping the items from the associated item distribution center to the customer; ...

providing to the customer an indication of each of multiple of the determined fulfillment plans as options for supplying the items to the customer, each indication of a determined fulfillment plan option including the determined cost of use and the determined actual delivery date for that determined fulfillment plan option; ...

Thus, the item ordering service automatically determines multiple alternative fulfillment plans for fulfilling an order from a customer, based on using multiple geographically distributed alternative item distribution centers of the item ordering service that each have distinct current inventory that includes the items of the order.

Conversely, Bilibin appears to lack any teaching or suggestion to have multiple alternative fulfillment plans in the manner claimed, and would likely result in an inoperable system if extended to attempt to use multiple alternative item distribution centers in the manner claimed. In particular, Bilibin appears to generally disclose that an auction seller may currently have possession of an item that is to be auctioned, and may benefit from assistance in shipping that item to an auction buyer. Accordingly, the Bilibin system allows such an auction seller to specify multiple alternative shipping companies that may be used to ship the item from a single starting location to a destination location of a buyer, and to obtain shipping prices corresponding to use of those shipping companies. However, the Bilibin system does not describe or suggest multiple alternative fulfillment plans as claimed, and further provides no support for the use of multiple alternative item distribution centers in the manner claimed. In particular, in Bilibin, the single starting location of the item being auctioned appears to be fixed by the auction seller before the shipping prices are obtained (e.g., the item is to be picked up from the seller's home, or the seller will drop off the item at a designated Mail Boxes Etc. store or other designated third-party location) – since the item location is fixed, and furthermore since the auction seller typically has only a single copy of the item that he/she is selling, it would not make sense for the seller to have or use multiple alternative geographically distributed item distribution centers that each have copies of the item for use in fulfilling orders from customers.

Thus, for at least these reasons, independent method claim 1 as amended is patentable over Bilibin. In addition, the other independent claims include similar claim elements, and are also patentable over Bilibin for at least the same reasons, including independent claims 16, 54, 59, 62 and 77 as amended, and independent claim 63 as previously rejected.

Furthermore, various of the pending claims include additional features and functionality that are not described or suggested by Bilibin, and are patentable over Bilibin for those reasons as well. For example, independent claim 16 as previously rejected and as currently amended recites that “the determining of actual delivery time [of items being transported to a recipient for

a particular fulfillment plan using one or more particular distribution centers is] based at least in part on information determined about processing that would take place at the distribution centers indicated by the fulfillment plan,” as well as on information about transporting the items between the distribution center(s) and the recipient. Independent computer-readable medium claim 54 as previously rejected and as currently amended includes similar language. Since Bilibin has no suggestion or motivation to even consider multiple such distribution centers, it provides no suggestion or motivation to use information about processing that occurs at such distribution centers as part of an analysis of alternative order fulfillment plans. Thus, these claims are further patentable over Bilibin for this reason as well.

The pending dependent claims include the features of those claims from which they depend, and are thus allowable for the same reasons as those claims. Moreover, the pending dependent claims also recite additional features lacking in the cited references, and are thus allowable on the basis of those features as well, although these additional features are not enumerated here for the sake of brevity.

Conclusion

In light of the above remarks, Applicants respectfully submit that all of the pending claims are allowable. Applicants therefore respectfully request the Examiner to reconsider this application and timely allow all pending claims. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 694-4815.

Application No. 09/965,121
Reply to Office Action dated July 17, 2007

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,
SEED Intellectual Property Law Group PLLC

/James A. D. White/

James A. D. White
Registration No. 43,985

JDW:dd

701 Fifth Avenue, Suite 5400
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031